

1 Michael G. Long, Esq. (Bar No. 129771)  
2 David R. Johnson, Esq. (Bar No. 174883)  
3 Watt, Tieder, Hoffar & Fitzgerald, L.L.P.  
4 2040 Main Street, Suite 300  
5 Irvine, California 92614  
(949) 852-6700 telephone  
(949) 261-0771 facsimile

E-filing

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8 Attorneys for Plaintiffs

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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13  
14 OAKLAND DIVISION

15 UNITED STATES FIDELITY AND GUARANTY ) CASE NO. C 03 5376-SBA  
16 COMPANY, et al., ) AND ORDER  
17 Plaintiffs, ) STIPULATION RE: ISSUANCE OF  
18 v. ) TEMPORARY RESTRAINING  
19 THE SCOTT COMPANIES, INC., et al. ) ORDER; ORDER THEREON  
20 Defendants )  
21 ) [Before Magistrate Judge Chen Per  
22 ) Terms Of Settlement Agreement]  
23 )  
24 )  
25 )  
26 )  
27 )  
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18 Plaintiffs United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance  
19 Company, St. Paul Fire and Marine Insurance Company and St. Paul Medical Liability Insurance  
20 Company (collectively, "St. Paul") and Defendants Robert T. Nurisso ("Nurisso") and Joseph A.  
21 Guglielmo ("Guglielmo"), by and through their counsel of record herein, hereby stipulate and agree as  
22 follows:

23 **WHEREAS,**

24 A. On September 12, 2006, St. Paul filed a Motion for the Issuance of Temporary Restraining  
25 Order in Connection with St. Paul's Motion for a Judgment Against Robert Nurisso and Joseph  
26 Guglielmo ("Motion"). By the Motion, St. Paul seeks the issuance of a Temporary Restraining Order  
27 ("TRO") against Nurisso and Guglielmo, and their respective officers, agents, servants, employees and  
28 attorneys and all those in active concert or participation with them, restraining them from transferring or

1 otherwise encumbering certain assets in which they have an ownership interest.

2 B. More specifically, St. Paul seeks a TRO:

3 (1) Against Nuriuso for the asset identified by him on his sworn financial statement dated  
 4 March 21, 2005 as "Wild Horse LP," including its component assets which include 15700 S. McKinley  
 5 Avenue, LLC, Able Calvine Self Storage, LLC ("Able Calvine"), and Able Taylor Self Storage, LLC, and  
 6 two promissory notes made by Roseville Fuel Plaza, LLC to Able Calvine Self Storage, LLC and to  
 7 Crown Point Apartments in which Nuriuso claims an interest, including his community property interest  
 8 therein as well as any proceeds of such assets (collectively, "Nuriuso's Assets"); and

9 (2) Against Guglielmo for the asset identified on his sworn financial statement dated  
 10 March 21, 2005 as "Guggs Investments, LP," including its component assets, which include 15700 S.  
 11 McKinley Avenue, LLC, Hayes-Cole, LP, Westwood Property, LP and two certain promissory notes by  
 12 Robert Nuriuso, including his community property interest therein as well as any proceeds of such assets  
 13 (collectively, "Guglielmo's Assets").

14 C. Nuriuso has represented that the sale of Able-Calvine is presently pending, and that the  
 15 issuance of the TRO will cause the sale to not proceed.

16 **WHEREFORE**, in order to facilitate the sale of Able Calvine and to protect St. Paul's position  
 17 with respect to Nuriuso's Assets and Guglielmo's Assets, St. Paul, Nuriuso and Guglielmo hereby  
 18 stipulate and agree that:

19 1. A TRO shall immediately issue restraining Nuriuso, and his officers, agents, servants,  
 20 employees and attorneys and all those in active concert or participation with him, from transferring or  
 21 otherwise encumbering Nuriuso's Assets until the further hearing by the Court on the issuance of a  
 22 Preliminary Injunction based upon St. Paul's Motion, except for Able Calvine, which shall be treated as  
 23 follows: (1) Able-Calvine shall not be subject to the TRO in order to facilitate the sale of the asset to a  
 24 third party; and (2) Nuriuso's portion of the proceeds of the sale of Able Calvine, which is 50%, shall be  
 25 placed in an account of a bank to be mutually agreed upon by St. Paul and Nuriuso and, immediately upon  
 26 the close of the sale, shall be subject to the TRO.

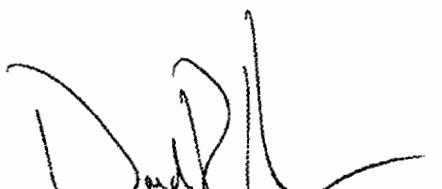
27 2. A TRO shall immediately issue restraining Guglielmo, and his officers, agents, servants,  
 28 employees and attorneys and all those in active concert or participation with him, from transferring or

1 otherwise encumbering Guglielmo's Assets until the further hearing by the Court on the issuance of a  
2 Preliminary Injunction based upon St. Paul's Motion.

3. The hearing on the issuance of a Preliminary Injunction shall be set for November 6, 2006,  
4 or as soon thereafter as the Court's calendar permits. Nurisso's and Guglielmo's written oppositions to  
5 the issuance of a Preliminary Injunction shall be filed and served two (2) weeks before the date of the  
6 hearing. St. Paul's reply/replies to Nurisso's and Guglielmo's oppositions shall be filed and served one  
7 (1) week before the date of the hearing.

8 IT IS SO STIPULATED.

9  
10 Dated: September 21, 2006



11 Michael G. Long, Esq.  
12 David R. Johnson, Esq.  
13 Watt, Tieder, Hoffar & Fitzgerald, L.L.P.  
14 2040 Main Street, Suite 300  
15 Irvine, California 92614  
16 Tel:(949) 852-6700; Fax (949) 261-0771  
17 Attorneys for Plaintiffs

18 Dated: September \_\_, 2006

19  
20 Richard W. Miller, Esq.  
21 Scott H. Murphy, Esq.  
22 Miller Law Firm  
23 4310 Madison Avenue  
24 Kansas City, Missouri 64111  
25 Tel:(816) 531-0755; Fax (800) 982-3150  
26 Attorneys for Defendants

## ORDER

27 Based upon the foregoing stipulation, and good cause therefore, the Court orders as follows:

28 1. That a temporary restraining order immediately issue restraining and enjoining Robert  
2 Nurisso, and his officers, agents, servants, employees and attorneys and all those in active concert or  
3 participation with him, from transferring or encumbering in full or in part the asset identified as "Wild  
4 Horse LP," including its component assets which include 15700 S. McKinley Avenue, LLC and Able  
5 Taylor Self Storage, LLC, including his community property interest therein as well as any proceeds of  
6 such assets. The temporary restraining order shall further restrain and enjoin Robert Nurisso, and his  
7 officers, agents, servants, employees and attorneys and all those in active concert or participation with

1 otherwise encumbering Guglielmo's Assets until the further hearing by the Court on the issuance of a  
2 Preliminary Injunction based upon St. Paul's Motion.

3. The hearing on the issuance of a Preliminary Injunction shall be set for November 6, 2006,  
4 or as soon thereafter as the Court's calendar permits. Nurisso's and Guglielmo's written oppositions to  
5 the issuance of a Preliminary Injunction shall be filed and served two (2) weeks before the date of the  
6 hearing. St. Paul's reply/replies to Nurisso's and Guglielmo's oppositions shall be filed and served one  
7 (1) week before the date of the hearing.

8 IT IS SO STIPULATED.

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10 Dated: September \_\_, 2006

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15 Dated: September 21, 2006

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20  
21 **ORDER**

22 Based upon the foregoing stipulation, and good cause therefore, the Court orders as follows:

23 1. That a temporary restraining order immediately issue restraining and enjoining Robert  
24 Nurisso, and his officers, agents, servants, employees and attorneys and all those in active concert or  
25 participation with him, from transferring or encumbering in full or in part the asset identified as "Wild  
26 Horse LP," including its component assets which include 15700 S. McKinley Avenue, LLC and Able  
27 Taylor Self Storage, LLC, including his community property interest therein as well as any proceeds of  
28 such assets. The temporary restraining order shall further restrain and enjoin Robert Nurisso, and his  
officers, agents, servants, employees and attorneys and all those in active concert or participation with

1 him, from transferring or encumbering in full or in part the certain promissory note dated July 1, 2001 in  
 2 the amount of \$776,086 payable by Roseville Fuel Plaza, LLC to Crown Point Apartments and the certain  
 3 promissory note in the amount of \$439,528 payable by Roseville Fuel Plaza, LLC to Able Calvine  
 4 Storage, LLC, including his community property interest therein as well as any proceeds of such assets.  
 5 The temporary restraining order shall remain in place until the further hearing by the Court on the  
 6 issuance of a Preliminary Injunction based upon St. Paul's Motion for the Issuance of Temporary  
 7 Restraining Order in Connection with St. Paul's Motion for a Judgment Against Robert Nurisso and  
 8 Joseph Guglielmo ("Motion").

9       2. That Robert Nurisso be permitted to proceed with the sale of his interest in Able Calvine  
 10 Self Storage, LLC ("Able Calvine"), but Robert Nurisso's portion of the proceeds, including his  
 11 community property interest therein, which is understood to be 50%, be immediately placed into an  
 12 account of a bank that is mutually agreeable to Robert Nurisso and St. Paul to be held in trust and  
 13 immediately subject to the temporary restraining order pending the further order of the Court.

14       3. A TRO shall immediately issue restraining and enjoining Joseph Guglielmo, and his  
 15 officers, agents, servants, employees and attorneys and all those in active concert or participation with  
 16 him, from transferring or otherwise encumbering in full or in part the asset identified as "Guggs  
 17 Investments, LP," including its component assets, which include 15700 S. McKinley Avenue, LLC,  
 18 Hayes-Cole, LP, Westwood Property, LP and two certain promissory notes by Robert Nurisso, and any  
 19 proceeds therefrom, until the further hearing by the Court on the issuance of a Preliminary Injunction  
 20 based upon St. Paul's Motion.

21       4. A hearing on the issuance of a Preliminary Injunction based upon the facts and  
 22 circumstances set forth in St. Paul's Motion shall be set for NOVEMBER 8 at 3:00 a.m./p.m.  
 23 before Magistrate Judge Chen. The following briefing schedule shall apply to the hearing: Robert  
 24 Nurisso's and Joseph Guglielmo's written oppositions to the issuance of a Preliminary Injunction shall be  
 25 filed and served on OCTOBER 23, 2006, BY 9:00 A.M. St. Paul's reply/replies to Robert Nurisso's and Joseph  
 26 Guglielmo's oppositions shall be filed and served on OCTOBER 30, 2006, BY 9:00 A.M.

27 IT IS SO ORDERED.

28 Dated: September 22, 2006

  
MAGISTRATE JUDGE EDWARD M. CHEN

\* COURTESY COPIES SHALL  
BE DELIVERED DIRECTLY  
TO CHAMBERS BY  
NOON THE  
DAY THE  
DUE.